

| | |
|--|--|
| CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795 | Hearing Date/Agenda Number P.C 5-11-03 Item No: 3.a. |
| STAFF REPORT | File Number CP02-054 |
| | Application Type Conditional Use Permit |
| | Council District 9 |
| | Planning Area Cambrian/Pioneer |
| | Assessor's Parcel Number(s) 421-08-095 |

| | |
|---------------------|-----------------------------------|
| PROJECT DESCRIPTION | Completed by: Dipa Chundur |
|---------------------|-----------------------------------|

Location: **West side of Union Avenue approximately 80 feet northerly of Ronda Drive (15063 Union Avenue)**

| | | |
|----------------------------|-------------------------|-------------------------|
| Gross Acreage: 0.33 | Net Acreage: n/a | Net Density: n/a |
|----------------------------|-------------------------|-------------------------|

| | |
|-------------------------------|---|
| Existing Zoning: R-1-8 | Existing Use: Single Family Detached Residence |
|-------------------------------|---|

| | |
|-------------------------------|--|
| Proposed Zoning: R-1-8 | Proposed Use: Child Care Center |
|-------------------------------|--|

| | |
|--------------|-------------------------|
| GENERAL PLAN | Completed by: DC |
|--------------|-------------------------|

| | |
|--|--|
| Land Use/Transportation Diagram Designation Medium Low Density Residential (8 DU/AC) | Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations |
|--|--|

| | |
|----------------------------------|-------------------------|
| SURROUNDING LAND USES AND ZONING | Completed by: DC |
|----------------------------------|-------------------------|

| | |
|---|----------------|
| North: Single-family detached residential uses | Unincorporated |
| East: Church Use | Unincorporated |
| South: Single-family detached residential uses | Unincorporated |
| West: Single-family detached residential uses | Unincorporated |

| | |
|----------------------|-------------------------|
| ENVIRONMENTAL STATUS | Completed by: DC |
|----------------------|-------------------------|

| | |
|--|--|
| <input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on | <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete |
|--|--|

| | |
|--------------|-------------------------|
| FILE HISTORY | Completed by: DC |
|--------------|-------------------------|

| | |
|------------------------------------|----------------------|
| Annexation Title: Parker 24 | Date: Pending |
|------------------------------------|----------------------|

| | |
|--|--|
| PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION | |
|--|--|

| | | |
|---|-------------|---|
| <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision | Date: _____ | Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation |
|---|-------------|---|

| | |
|---------------------------|---------|
| APPLICANT/OWNER/DEVELOPER | CONTACT |
|---------------------------|---------|

| | |
|--|--|
| Kruk, Claire V. Trustee Etal K's Quality Children's Center 3621 Bercaw Lane San José CA 95124 | Joe Louis Louis Engineering Corp 778 N 1st Street, Suite 200 San José CA 95112 |
|--|--|

PUBLIC AGENCY COMMENTS RECEIVED**Completed by: DC****Department of Public Works**

See attached memorandum

Other Departments and Agencies

GENERAL CORRESPONDENCE

See attached letter from neighbors.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Kruk, Claire V. Trustee Etal, is requesting a Conditional Use Permit to convert an existing 1,967 square foot single-family residence to a child day care center for up to 40 children on a 0.33-gross-acre site. A conditional use permit is required for the childcare use and the conversion of a single-family residence. The subject structure is not proposed to be used concurrently as a residence.

The uses surrounding the subject site include single family residence to the north, south, west and a church across Union Avenue to the east. The City Council approved the rezoning on April 1st 2003. The related annexation was initiated on April 22, 2003. The City Council subsequently acted on the annexation on May 20, 2003. The annexation is expected to be recorded with the County before the public hearing on this Conditional Use Permit.

Project Description

The proposed project will convert a 1,967 square foot single-family residence a child day care for up to 40 children and 4 employees. No modifications are proposed to the exterior of the existing structure. An outdoor play area and swimming pool will be located to the rear of the building. Good neighbor fences will be provided around the perimeter of the site. Protective fences and self-closing safety gates, in accordance with City Ordinance, will be installed around the pool area to separate it from the outdoor play area.

The daycare center will operate Monday through Friday from 6:30 a.m. to 7:00 p.m. The primary drop-off area will be provided in the front within the parking lot, however an extra parking space will be provided at the rear area next to the employee parking if needed. The children would be dropped of between 7 a.m.-11 a.m and picked up between 3p.m-6p.m. A total of six (6) parking spaces will be provided for the day care for staff and visitors. Access to the site is from Union Avenue, a four lane arterial street.

ENVIRONMENTAL REVIEW

This project is found to be exempt from the environmental review under the provisions of Section 15303 (c) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) and Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. This exemption applies to new construction or the conversion of small structures.

This determination is made pursuant to CEQA in light of the following considerations:

A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

A Noise Study was conducted for the proposed project by Edward L. Pack Associates, Inc. on November 27, 2002. The Noise Study prepared for the project shows that the noise exposure levels from the playground at the residential property lines on the west and north side of the site will slightly exceed 55 dB DNL, and therefore require minor mitigation measures. To bring the total noise exposure levels to 55 dB DNL or below, the applicant proposes to construct a 6-foot high fence of air-tight construction along the west and north property line. The north property line would extend to 120 feet from the west property line. Upon inclusion of this improvement in the project, as is proposed, this proposal will not have a significant impact on the environment.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) in that the General Plan encourages childcare facilities in residential areas.

ANALYSIS

The primary issues analyzed in this report include consistency with 1) City Council Policy No. 6-14 the Guidelines for Child Day Care. 2) City Council Policy No. 6-11 the Conversion of Residential Structures to Non-Residential Uses.

City Council Policy No. 6-14 the Guidelines for Child Day Care

The City Council policy addresses several aspects of the location, physical design, and layout of new childcare centers. Some of the key issues of the policy are discussed below.

Facility Location. The Policy states that new child day care centers are encouraged in residential areas but should be limited to sites on major collectors and arterial streets. This project complies with the policy in this regard. Further, the policy recommends that conversions from residential uses within homogeneous single-family neighborhoods be discouraged. While adjacent to single-family houses, this site is located just a few parcels from Highway 85 and on a major arterial street in an area where there is a mix of uses including attached unit housing and

commercial uses across Union Avenue.

Parking and Circulation. Based on the policy, a total of 6.6 parking spaces are recommended for a 40-child capacity daycare facility including employees. This site provides a total of six (6) parking spaces on-site. While not recommended for child drop-off purposes, there is curbside parking available in front of the site which could be used for employees. The Zoning Ordinance, however, requires only 6.0 parking spaces for such a proposal.

Cars will access the site from the existing driveway and pick-up and drop-off children in a clearly designated area. Circulation and drop-off/pick-up areas for the day care center will be provided within the parking lot, which allows safe drop-off and adequate stacking capacity of vehicles. Adequate back out room will be provided for the parking spaces. Access to the facility will not impact traffic flow on Union Avenue. Cars will not have to back onto the street nor will they stack up waiting to enter the site.

The driveway along side of the structure should ideally be about 20 feet in width. A 16-foot wide driveway, however, is proposed. Staff feels that this is generally acceptable in this instance since employees will be parking in the rear area and these spaces will not be subject to a high turnover of vehicles during the course of the day or during peak drop-off or pick-up periods. It is generally anticipated that parents will use the front parking spaces for drop-off and pick up and that the rear spaces will be used relatively infrequently. Given the very short distance of the driveway and projected speeds, the 16-foot driveway should be adequate to allow two cars to pass at very slow speed. While the driveway could conceivably be widened, this would be counterproductive in providing landscape buffering along the edges of the driveway (see additional discussion in report regarding landscaping).

The applicant (day care provider) is proposing to enter into a contractual agreement with the parents (clients) to stagger the specific time periods for the drop off and pick up to limit peak parking demands and more effectively manage and minimize potential circulation conflicts.

Site Design. The policy requires a minimum lot area of 10,000 square feet for new day care centers. The proposed center has a lot area of 14,839.2 square feet. The policy requires a minimum of five feet of perimeter landscaping to buffer any adjacent residential uses. As indicated above, the driveway located along the south property line is 16 feet in width. Widening the driveway would further limit perimeter landscape opportunities. As a creative alternative, the applicant has coordinated with the adjacent property owner (a family relative) to provide and enhance a five-foot wide landscape buffer along the adjacent side of the fence. This helps the project meet the intent of the policy which is to ensure provide an appropriate buffer. A small, but well planted landscape strip will also be provided between the subject structure and the driveway.

Typically, a one-way circulation loop is provided in the front area to facilitate child drop off. In this case, such a design is not proposed since the lot is less than 90 feet in width. This helps maintain better front yard landscaping opportunities.

Noise. As recommended by the City Council policy, a noise study was conducted for the proposed project due to its proximity to residential uses. The noise study prepared for the project shows that the noise exposure levels from the playground at the residential property lines on the west and north side of the site will slightly exceed 55 dB DNL, and therefore require mitigation

measures. To bring the total noise exposure levels to 55 dB DNL or below, the applicant proposes to construct a 6-foot high fence of air-tight construction along the west and north property line. The north property line would extend to 120 feet from the west property line. This mitigation takes into consideration the applicant's proposed program to stagger outdoor play times and limit the number of children to outdoor play areas to 14 at any given time. A condition has been placed in this permit to require the applicant to abide by this proposed limitation. Similar programs to limit the number of children that may play outside at one time have been used for other recently approved childcare and private school facilities where there is a potentially sensitive residential interface.

In addition Staff also recommended that the fence should be provided on the south side as well as a buffer between the driveway and adjacent residence. Based on the daytime, Monday through Friday nature of the proposed day care use and the incorporation of the recommended noise mitigation measures, staff believes that this facility can operate without undue disturbance to adjacent residential uses.

City Council Policy No. 6-11 the Conversion of Residential Structures to Non-Residential Uses.

The intent of the Council Policy is to ensure the proper conversion of residential structures to facilitate the operation needs of the commercial use and to make sure that the converted structure does not disrupt the existing development pattern of the neighborhood. The policy addresses five key issues including: 1) use compatibility, 2) circulation/parking, 3) occupancy, 4) landscaping, 5) architecture.

Use Compatibility. The subject site in a residentially zoned district that is very restrictive with regards to the type of non-residential uses. Day care centers, such as proposed are an allowed use in the residential zoning districts upon the issuance of a Conditional Use Permit. The policy identifies that conversions should be limited to lower intensity types of uses such as offices or others that operate during the daytime on weekdays and which are closed during evening and weekend hours.

Parking/Circulation. The policy recommends that circulation occur on-site so that exiting vehicles are not required to back out onto the public street. The project complies with this recommendation. It is recommended that parking be placed at the rear of the property, when possible, to minimize the loss of landscaping in the front yard area. The proposed project provides four parking spaces at the rear of the site and two spaces in the front area. The ability to provide additional parking in the rear is inhibited by the location of an existing swimming pool that is proposed to remain. Pursuant to the policy, when parking must be provided in the front, it should not occupy more than 50% of the front yard area. The driveway and front parking spaces will occupy 45% of the front yard areas. The two parking spaces in the front yard area will be screened.

Occupancy. The policy recommends that house conversions be limited to structures smaller than 2,000 square feet and contain only one business entity. The proposed project complies with this policy.

Landscaping. The proposed project complies with all relevant policy requirements in that areas not designated for parking and building will be appropriately landscaped. Additionally, hard surface parking areas will be screened by shrubs.

Architecture. The project complies with the requirement of the policy in that the structure will not be modified so that it remains consistent with the surrounding residential structures. The use will not require or be allowed to have large signs that would negatively impact the residential character of the area. Trash area will be screened from view at the rear of the property.

PUBLIC OUTREACH

Several letters (see attachments) from area residents were received. The key concerns were related to traffic. Based on an in-house traffic analysis performed by the Department of Public Works, this project is expected to generate 37 peak hour trips. Given the low trip generation and geographical location of the project site to nearby signalized intersections, it was concluded that the project would be in conformance to the City's Level of Service (LOS) policy. A formal community meeting for this project was held on May 21, 2003 at Carlton Elementary School with City staff and the applicant in attendance. No neighbors attended the meeting. Recent public hearing regarding the related annexation and rezoning, which made mention of the proposed day care center in the staff report, did not bring forth any significant neighbor comments.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the proposal with members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. The project was found to be exempt from further environmental review under the provisions of Section 15303(c) of CEQA.
4. The project consists of a 1,967 square foot child day care center for up to 40 children on a 0.33-gross-acre site.
5. An outdoor play area and swimming pool will be located to the rear of the building with fencing and gates to secure openings around the pool area.
6. Circulation and drop-off area will be provided for passenger vehicles in front within the parking lot. A total of 6 parking spaces overall will be provided for the day care use.
7. On-site employee parking will be limited to the rear parking area.

8. The parking and circulation area in the front yard area will not exceed 45% of the total front yard area.
9. Based on an in-house traffic analysis performed by the Department of Public Works, this project is expected to generate 37 peak hour trips.
10. The day care will hours will be limited to Monday through Friday from 6:30 a.m. to 7:00 p.m.
11. The project proposes a total of 5-foot landscape buffer along the south property line, in which a portion will provided on the adjacent property. The applicant proposes to maximize the landscape to the fullest extent possible, and include the provision of screen trees and/or shrubbery along the property lines to address any privacy issues.
12. A noticed community meeting concerning the project was held on May 21st 2003 in which no area residents attended.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project, with inclusion of conditions proposed by staff, conforms to the intent of City Council Policy 6-14, Guidelines for Child Day Care
5. The proposed project conforms to the intent of and the City Council Policy No. 6-11 the Conversion of Residential Structures to Non-Residential Uses.
6. The project will be in conformance to the City's Traffic Level of Service (LOS) policy.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
- b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "K's Quality Children's Center," dated 08/06/02, last revised June 4, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
3. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday.
5. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
6. **Off-Site Landscaping.** Prior to occupancy, the applicant is required to secure appropriate permission for the installation of off-site landscape improvements adjacent to the proposed driveway as shown on the improved plans. The applicant shall also be responsible for the installation of an automatic irrigation system for said landscape improvements.
7. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
8. **Lighting.** No new on-site lighting is approved at time but is subject to a Permit Adjustment. On-site lighting shall use low-pressure sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property and in conformance with the City Lighting Policy.
9. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted.
10. **Roof Equipment.** All roof equipment shall be screened from view.
11. **Utilities.** All new on-site telephone, electrical and other overhead service facilities shall be placed underground.
12. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
13. **Street Trees.** Street trees shall be planted on the street frontage to the satisfaction of the Director of the Department of Streets and Traffic. A permit for this is required from the Department of Streets and Traffic, (408) 277-4373.

14. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
15. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-16235) to the satisfaction of the Director of Public Works:
 - a. *Sewer Fees.* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees and sewage treatment plant connection fees, less previous credits, are due and payable.
 - b. *Undergrounding.* The In Lieu Undergrounding fee shall be paid to the City for all frontage adjacent to Union Avenue prior to issuance of a Public Works clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the base fee is \$224. per linear foot.
 - e. *Electrical.* The need for relamping, relocation, or new electroliers will be evaluated at the improvement plan stage.
 - f. *Landscape.* Install street trees within the public right-of-way along the entire street frontage per City standards. Contact the City Arborist at (408) 277-2756 for the designated street tree.
 - g. *Street Improvements:* Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage. Improvement of the public street to the satisfaction of the Director of Public Works. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as past of the final street improvement plans.
 - h. *Minor Improvement Permit.* The applicant will be required to satisfy all Public Works conditions prior to the issuance of a Public Works Clearance. The clearance will require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.
17. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP02-054, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

- d. *Mechanical Equipment.* No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise level from such equipment will not exceed 55 DBA at the residential property line.
 - e. *Off-site Landscaping.* Prior to occupancy, the developer shall comply with condition #6 noted above.
 - f. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets.
 - g. *Archaeology.* Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance mitigation program to the satisfaction of the Director of Planning.
18. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
19. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
20. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
21. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
22. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
23. **Hours.** The child day care center shall be limited to operation between the hours of 6:30 a.m. to 7:00 p.m. Monday through Friday, unless the City approves a subsequent Conditional Use Permit for other hours of operation.
24. **Maximum Number of Children.** The capacity of the proposed childcare center shall be limited to a maximum of 40 children.

25. **Staggered Drop-Off/Pickup Times.** To reduce any potential on-site circulation conflicts or over-concentration of vehicles on the site at any given time, the applicant is required to have an contractual agreement with all clients (parents/guardians) that evenly divides the drop off and pick-up times of the children into two separate non-overlapping time periods. The applicant shall ensure compliance with this contract agreement. Copies of said contract shall be made available to the City upon request.
26. **Maximum Children in Play Area.** The number of children in the play area shall be limited to a maximum of 14 children at any one time. Outdoor play hours shall not exceed 4 hours in any 24-hour period.
27. **Amplified Sound.** All amplified sound shall be contained within the buildings and the buildings shall be adequately insulated to prevent sound from emanating outside.
28. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
29. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
30. **Other Permits.** The applicant shall obtain necessary permits from outside agencies with jurisdiction over the child daycare use.
31. **Signs.** No signs are approved at this time. Signs shall be limited to one, non-illuminated, attached sign not to exceed four (4) square feet in accordance with the City Council Policy 6-11 for the Conversion of Residential Structures to Non-Residential Uses. The developer shall secure a sign permit from the City prior to the installation of a sign.
32. **Noise Mitigation.** The developer shall comply with the noise mitigation recommendations identified in the noise report prepared by Edward L. Pack & Associates, dated November 27, 2002 to the satisfaction of the Director of Planning.
33. **State License.** The applicant shall obtain all required licenses/permits and shall operate and maintain these in good standing.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance

with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

Attachments: City Council Policy for Child Day Care and Conversion of Residential Structures to Non Residential Uses. Public Works Initial Memorandum. Fire and Police Memorandum. Four letters / petitions from neighbors.

cc: Steve Frederick, 2910 Stevens Creek Blvd, Suite 109-541, San José CA 95128